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D R A F T -- 1 November 1978

The Honorable John A. McCone  
612 South Flower Street  
Los Angeles, California 90017

Dear John,

Thanks for keeping me posted on your helpful exchange with Senator Cranston. I'd like to comment on a number of the points you raised in your letter of October 26 with respect to the Senator's views. First, there is the assertion that under the Hughes-Ryan Amendment we notify only the intelligence committees in advance of a covert operation and the other six committees ex post facto. This is not quite accurate. Under the Hughes-Ryan Amendment, we are only required to notify the appropriate Congressional committees "in a timely <sup>look on</sup> ~~manner~~" It is our position in the Executive Branch that this does not require prior notification or prior approval. At the same time, we do not stand on ceremony and deliberately wait until a covert action has been undertaken or completed prior to notifying the committees. In point of fact, more often than not it will be possible to give notification before an action is undertaken and we will do so. There is no instance since I have been here in which we have not been able to provide notification prior to commencement of a covert action. We treat all committees on the same basis, however. Whenever we make notification, we do so to ~~all eight~~ <sup>the appropriate</sup> committees as promptly as possible. By this I mean we notify the staff

of that committee that we have available the details of a new covert action whenever they are ready to hear us. [Different committees respond with different delays. Generally, the intelligence committees are the most prompt in asking to have us make our presentation. In sum, the intelligence committees generally do hear of these actions in a more timely manner. That is a matter of committee choice, not ours.]

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You also indicate that Senator Cranston believes that we have reduced the number of covert actions by conviction that they are not as useful today, not because of fear of exposure. There is a great deal of truth in this, but to attribute the reduction of covert actions entirely to a lesser applicability is considerably to overstate the case. There are frequent instances in which an incipient covert action proposal is dropped simply because we feel that the odds of keeping it quiet are too slim to warrant the risks that would be involved. I do believe that we have fewer opportunities for covert action today, but when they do come forward the most common cause for not proceeding is the risk of leaks.

I would not deny the Senator's thesis that a great many leaks of security information have come from former CIA employees. I am happy that we are taking his advice in <sup>instituting legal proceedings against</sup> prosecuting those whom we can. As you know, we've won a case against Mr. Frank Snepp and are now hoping that the appellate court will uphold that judgment. At this time, it would appear premature to go ahead with any other similar <sup>actions</sup> prosecutions until we are sure this ruling will hold up. I can certainly assure you that I will urge the Attorney General to <sup>act in</sup> prosecute every such case in which there is adequate evidence. We are, however, unable to <sup>act</sup> prosecute in

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some instances for one or more of several reasons. To begin with, it may be necessary to disclose more secret information than we can afford in order to prosecute <sup>criminal actions,</sup> We need some legislative relief to allow us to obtain protective orders or other means of preventing full public disclosure of our sensitive information while at the same time protecting the rights of the accused to a full defense. A second problem that we have is with people like Philip Agee who work from abroad. To this date, we have been unable to find an adequate legislative control under which to grapple with his case. X

Insert paragraph in paragraph 4 of General Counsel's 9 Nov 78 memorandum.

Finally, I would like to be of help to you in commenting to Senator Cranston on the draft charter legislation. Let me say that we are deeply in negotiation with the Senate Select Committee on Intelligence with respect to this legislation. I think that such substantial changes are almost agreed upon that it would not be worth your time to wade through this voluminous document in order to make your assessment of it. It is my understanding that the Senate Select Committee intends to reintroduce a new version of this bill in the next Congress with substantial changes. We are working closely with them on this and I believe our common efforts will come up with a very satisfactory proposal both from the point of view of definitely regulating our intelligence activities and of giving them enough opportunity to do their job adequately. X

I am enclosing a copy of our views on the legislation as it now stands for what use it may be to you. I'll ask Walt Elder to keep you posted when the new draft legislation is issued.

It certainly was wonderful to see you here in Washington and to exchange ideas. I look forward to the next opportunity. With warmest regards.

Yours,

STANSFIELD TURNER

Enclosure